

State of Wisconsin  
Department of Natural Resources  
Manual Code 9522.1 – Email and Electronic Records  
and the Records Law

 3/25/16

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Date

Rescinds and Replaces: (signed 04/16/2003)  
Division: Internal Services

Approved by OMT: (01/29/2016)  
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## I. SCOPE

This manual code applies to all email and electronic records held by any Department of Natural Resources (DNR) employee, volunteer, contractor or intern.

## II. POLICY

It is the Department's policy to ensure compliance with applicable statutes and codes, and to promote consistency regarding the ownership and use of email and other electronic records. These policies are based on the programmatic and technical environment of the agency as well as the issues surrounding emerging technology.

## III. DEFINITIONS

**"Record"** means "any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), computer printouts and optical disks.

"Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library." [§ [19.32\(2\)](#), Wis. Stats.]

**"Official Record"** means the most significant version of the record, usually the one held by the sender (originator) of the e-mail. It should contain complete and necessary information (content, context and structure) and be the true and correct copy.

**"Open Records Request"** means any request for files/records created or maintained by the Department.

**"Substantive Record"** means a record which has documentary or evidentiary value and must be maintained in accordance with a valid Records Disposal Authorization (RDA)

**"Attachment"** means a self-contained document file that is attached to an electronic message. Attachments should be managed the same way as other records and e-mails.

**“End Users”** means staff that include originators and those recipients of e-mail who must retain the record as part of their public duties.

#### **IV. PROCEDURE**

##### **A. Email**

###### **1. Retention**

Most emails fit the definition of a “record” under the Wisconsin Open Records Law. Some of those emails will be considered substantive, and must be maintained in accordance with a valid Records Disposal Authorization (RDA) and be available for public inspection and copying. However, some emails will be considered transitory, and may be deleted when no longer needed.

###### **2. Email Records Custodian**

In order to minimize the number of duplicate emails maintained, it is DNR policy that the following are record custodians:

- Sender for internal emails
- Primary DNR recipient for external emails

###### **3. Duplicates**

Email as a medium promotes communication to multiple users with great ease. Consequently, email systems contain many duplicate records.

- In general a duplicate is considered a non-record that can be deleted

###### **4. Emails Containing Drafts**

Internal drafts (within the drafting group) are considered non-records under the Wisconsin Open Records Law, and do not need to be retained unless they have some value to the author. It is good records management practice to go through and clean up drafts in your email.

###### **5. Deferral of Records Destruction**

Regardless of any RDAs which allow destruction of records, DNR personnel should not destroy records if:

- The records are the subject of an open records request;
- The records are related to a partial denial for an open records request (hold for 60 days);
- The records concern a matter which is in litigation or likely to be in litigation in the future;
- If unsure, check with your supervisor or program attorney.

B. Database Requests

The Attorney General has advised that where information is stored in a database a person can “within reasonable limits” request a data run to obtain the requested information, 68 Op. Att’y Gen. 231, 232 (1979). However, Wis. Stat. § 19.35(1)(L) provides that a records custodian is not required to create a new record by extracting information from an existing record and compiling the information in a new format.

DNR Policy For Extraction of Records From a Database:

If the requested information can be easily extracted from the database (i.e. with just a few keystrokes, will take less than a half hour to complete), such records should be provided. More complex data runs may need further analysis. Discuss with your supervisor if you have questions on whether or not a request would fit inside the workload/time restriction.

**V. BACKGROUND**

A. Information regarding open records review the following:

1. MC9521.1 Open Records Requests Policy and Procedures
2. MC9523.1 Records Management
3. HB9520.5 Records Management Handbook

B. Additional information on standards and best management practices for service delivery and responsiveness see [MC9551.1](#).